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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
|-----------------|-------------|----------------------|---------------------|
| 08/689,721 | 08/12/96 | PERRY | A |

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MM42/1118

EXAMINER

LUEBKE, R

ART UNIT

PAPER NUMBER

2832

DATE MAILED:

32
11/18/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/689,721

Applicant(s)
Perry

Examiner
Renee S. Luebke

Group Art Unit
2832



☒ Responsive to communication(s) filed on Oct 12, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 11 is/are pending in the application.

Of the above, claim(s) none is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 11 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

1. The request filed on October 12, 1999 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 08/689721 is acceptable and a CPA has been established. An action on the CPA follows.

2. Claim 11 is objected to because on line 3, the spelling of "recorder" should be corrected. Appropriate correction is required.

3. Claim 11 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for pulling the recorder apart and then placing the ring thereon, does not reasonably provide enablement for performing this operation *after* the strap has been placed on the neck of the user. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to perform the method of the invention commensurate in scope with this claim.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Thompson shows a typical recorder which is not usable with the present invention since it does not have a diameter that increases from the juncture toward the mouthpiece.

5. **Any response to this action may be mailed to:**

Assistant Commissioner for Patents
Washington, DC 20231

or faxed to:

(703) 308-7722 or 308-7724 or 308-7328

(informal or draft communications should be clearly labeled "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to:
Crystal Plaza 4, Fourth Floor (Receptionist)
2201 South Clark Place, Arlington, Virginia.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mrs. Renee Luebke at (703) 308-1511. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Michael Gellner, can be reached at (703) 308-1721.



Renee S. Luebke
Primary Patent Examiner
November 16, 1999